

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

CONTINENTAL CASUALTY)	CASE NO. 8:14-cv-00194
COMPANY, an Illinois corporation,)	
)	
Plaintiff,)	
)	
v.)	JOINT MOTION AND STIPULATION TO
)	STAY DECLARATORY JUDGMENT
GREATER OMAHA PACKING)	CLAIMS AND TO DISMISS ALL OTHER
COMPANY, INC., a Nebraska)	CLAIMS WITHOUT PREJUDICE
corporation,)	
)	
Defendant.)	

COME NOW the parties, Plaintiff, Continental Casualty Company, and Defendant, Greater Omaha Packing Company, Inc., by and through their undersigned attorneys, and hereby jointly move and stipulate as follows:

1. This is an insurance coverage dispute arising out of certain underlying lawsuits against Greater Omaha Packing Company, Inc. The parties have reached an agreement to stay their respective requests for declaratory relief pending the final resolution of the remaining underlying lawsuit, styled *Fairbank Farms v. Greater Omaha*, pending in the United States District Court for the Western District of New York. The parties have also reached an agreement to dismiss without prejudice their respective requests for affirmative relief against each other. The parties believe that resolution of the underlying case may facilitate an easier and more efficient resolution of the pending claims for declaratory relief, and no party will be harmed by the request for a stay while that case continues towards resolution.

2. The parties therefore request that the Court stay the claims for declaratory relief contained in Count I of Continental's Amended Complaint [Doc. #33] and Count I of Greater Omaha's Amended Counterclaim [Doc. # 57].

3. Subject to the Court granting a stay of the parties' declaratory judgment claims,

the parties hereby stipulate and agree that all other claims asserted in Continental's Amended Complaint and Greater Omaha's Amended Counterclaim shall be dismissed without prejudice. Specifically, the parties stipulate and agree that Continental's claim for Reimbursement of Certain Contractual Indemnification Payments (Count II) shall be dismissed without prejudice and that Greater Omaha's counterclaims for Breach of Contract and Covenant of Good Faith and Fair Dealing (Count II), Breach of Fiduciary Duty (Count III), and Bad Faith (Count IV) shall also be dismissed without prejudice.

WHEREFORE, the parties jointly request that the Court enter an Order adopting and approving the above-described stipulation; staying the declaratory judgment claims until the underlying lawsuit has been fully and finally resolved; and, subject to a stay of the declaratory judgment claims, dismissing all other claims without prejudice.

GREATER OMAHA PACKING COMPANY, INC., a
Nebraska corporation, Defendant,

BY: s/ Michael F. Coyle
Michael F. Coyle, #18299
Patrick S. Cooper, #22399
Robert W. Futhey, #24620
FRASER STRYKER PC LLO
409 South 17 Street, #500
Omaha, Nebraska 68102-2663
(402) 341-6000
mcoyle@fraserstryker.com
pcooper@fraserstryker.com
rfuthey@fraserstryker.com
ATTORNEYS FOR DEFENDANT

CONTINENTAL CASUALTY COMPANY, an Illinois
corporation, Plaintiff,

BY: s/ Dan H. Ketcham
Dan H. Ketcham, #18930
Engles, Ketcham, Olson & Keith, P.C.
1350 Woodmen Tower
Omaha, NE 68102
(402) 348-0900
dketcham@ekoklaw.com

and

David Timmins
Elliott Strader
GARDERE WYNNE SEWELL
2021 McKinley Avenue Suite 1600
Dallas, TX 75201
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

This is to certify that on the 29th day of August, 2017, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following:

Dan H. Ketcham, #18930
Engles, Ketcham, Olson & Keith, PC
1350 Woodmen Tower
Omaha, NE 68102

David Timmins
Elliott Strader
Gardere Wynne Sewell
2021 McKinley Ave., Suite 1600
Dallas, TX 75201

Michael F. Coyle, #18299
Patrick S. Cooper, #22399
Robert W. Futhey, #24620
Fraser Stryker, PC, LLO
409 S. 17 St., #500
Omaha, NE 68102-2663

s/ Dan H. Ketcham_____